

Minerals Council files for judicial review of Mining Charter clauses

The Minerals Council South Africa says that despite ongoing attempts to reach a compromise with the minister of energy, it has filed an application for judicial review to set aside certain clauses in the 2018 Mining Charter. The council believes the provisions would be detrimental to achieving sustainability in the mining industry.



Roger Baxter, CEO, Minerals Council

Given the peremptory 180-day time bar imposed by section 7(1) of the Promotion of Administrative Justice Act (PAJA), the Minerals Council was obliged to launch the review proceedings on 26 March 2019, despite the fact that the discussions are ongoing and may yet bear fruit, the council said in a statement.

“This application is fully aligned with the Minerals Council’s previously stated view that most aspects of the charter represent a reasonable and workable framework, but that the two provision that the charter does not fully recognise the continuing consequences of previous empowerment transactions, particularly in respect of mining right renewals and transfers of these rights, remains untenable,” says Roger Baxter, Minerals Council CEO.

“Not only does this provision in particular have a severely dampening effect on the attractiveness of mining in the eyes of investors, but it is also, in our view, a breach of the declaratory order on the matter issued by the North Gauteng High Court in April.”



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Baxter says that the minister has been kept fully apprised of the decision to file the application and the council continues to seek a solution to the current impasse that respects the outcome of the High Court judgment on continuing consequences, and provides a level playing field for companies in this regard.

“A transformed, growing and competitive mining sector would be a significant catalyst for South Africa’s social and economic development and critical for the realisation of the ambitions of the National Development Plan.

“But these goals will only be realised through a minerals policy framework that conforms to the rule of law and principles of legality; and by administrative action which is lawful, reasonable and procedurally fair and consistent in all respects with provisions of the country’s legislation. The rule of law, regulatory certainty and the fair and even-handed administration of laws are of the utmost importance in sustaining the mining industry, and indeed the economy as a whole,” he says.

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